

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**FILED**

JUN 18 2012

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY DEPUTY CLERK

Dwayne L. Wilson )

Movant )

v. )

CIVIL NO. SA-12-MC-281-OG

Judge David Klein, Westchester )  
Family Court, White Plains, NY; Supervisor, )  
Westchester County Office of )  
Child Support Enforcement, Mt. Vernon, )  
NY; and Thrift Savings Plan, Fairfax, VA. )

Respondents )

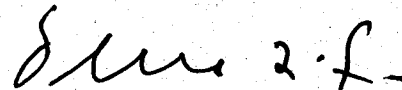
**ORDER DENYING MOTIONS FOR STAY OF GARNISHMENT**

On or about March 29, 2012, Movant appeared *pro se* and filed a motion for stay, requesting that the New York State Child Support Enforcement Unit be enjoined from garnishing his bank account(s) and/or retirement account(s). (Dkt. # 1). On or about May 29, 2012, Movant filed an amended motion to stay garnishment of all his accounts. (Dkt. # 2). The motion and amended motion are unrelated to any action currently pending before the Court, and movant has never filed a complaint. *See* FED.R.CIV.P. 3 ("A civil action is commenced by filing a complaint with the court"). Even assuming that the motion and amended motion could be construed as a complaint, the allegations (at most) give rise to a claim of wrongful garnishment, which is a matter governed by state law. There is nothing in the motions to indicate that the Court would have subject matter jurisdiction over the alleged controversy or personal jurisdiction over the individuals named in the motion. Without jurisdiction, the Court would be unable to grant any relief even if movant had filed a complaint in accordance with the rules. *See* FED.R.CIV.P. 12(h)(3) ("If the court determines at any time that it lacks subject matter jurisdiction, the court

*must* dismiss the action”)(emphasis added). It appears that the New York state court with continuing jurisdiction and authority over the child support/garnishment matter has already made certain rulings, and movant should return to that court to seek further relief, if any.

It is therefore ORDERED that the motion and amended motion for a stay and injunctive relief (Dkt. # 1, 2) are DENIED and this matter is DISMISSED.

SIGNED this 18 day of June, 2012.

A handwritten signature in dark ink, appearing to read "Orlando L. Garcia", written over a horizontal line.

ORLANDO L. GARCIA  
UNITED STATES DISTRICT JUDGE